

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5000 OF 2005

Shivaleela Laxman Gurav ..Petitioner.

Vs.

The State of Maharashtra & Ors. ..Respondents.

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Mr.Amit Sale for the Petitioner.

Mr.Bhushan Kakade, AGP for Respondent No.1.

Ms.Deepa Chavan for Respondent Nos.2 and 3.

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CORAM : A.P.SHAH &

DR.D.Y.CHANDRACHUD, JJ.

18th August, 2005.

P.C. :

1. The Petitioner appeared for the Higher Secondary Examination conducted by the Maharashtra Secondary and Higher Secondary Education Board in February 2004, as a student of the Bharat High School and Kannada Junior College, Utgi, Taluka Jath, District Sangli. The results were declared in June 2004 and the Petitioner was declared to have passed the examination by obtaining 70.67%

marks. The Petitioner applied for admission to the D.Ed. Course through the centralised admissions process and was informed on 3rd September, 2004 of her selection in the merit list and of the grant of admission to her for the D.Ed. course conducted by a college at Akkalkot. The Petitioner was at that stage called upon to remain present for an enquiry in the office of the Divisional Board on 18th August, 2004. The Petitioner attended the enquiry when she was informed of an allegation against her of the commission of certain malpractices in the examination. The Petitioner was asked as to whether a double holographic sticker had been affixed by her to the answer books, to which she replied in the negative. The Petitioner thereupon received another communication dated 8th September, 2004 and in pursuance thereof she attended an enquiry on 10th September, 2004. On 8th November, 2004 she was called upon to submit her original mark list and school leaving certificate. On 10th June, 2005 the Petitioner was informed that her result at the examination which was held in February-March 2004 stood cancelled and that she was debarred for appearing at the 12th Standard Examination until October 2004.

2. We have heard learned counsel appearing on behalf of the Petitioner and learned counsel appearing on behalf of the Board. The answer sheets of the Petitioner at the 12th Standard Examination which formed the basis of the action which has been adopted by the Board were produced before the Court. We are satisfied that the finding that has been arrived at by the Board of malpractice in the course of the examination cannot be faulted. The affixation of a double holographic sticker together with certain identification marks at the foot of certain pages of the answer sheet were in our view material sufficient for the Board to initiate action and to arrive at the conclusion that the candidate had committed a malpractice in the course of the examination. The Petitioner has been proceeded against together with a group of five other students. The action of the Board has not been even alleged to be malafide. The finding that has been arrived at in the enquiry cannot therefore be faulted.

3. We are, however, of the view that there is an unexplained delay on the part of the Board and

this is a circumstance which would weigh in structuring the ultimate relief if any that should be granted in these proceedings. The Board had decided to cancel the performance at the examination held in February-March 2004 of the Petitioner and to restrain her from appearing until October 2004. A communication was issued on behalf of the Divisional Board on 9th May, 2005 and which was forwarded by the institution to the Petitioner on 10th June, 2005. In the meantime, the Petitioner has already completed her studies for the First Year of the D.Ed. Course. At this stage, if the Petitioner is required to appear for the 12th Standard Examination again, it would amount to the imposition of a penalty in excess of what was originally envisaged in the order of the Divisional Board. We are, therefore, of the view that the ends of justice would be served if, the Petitioner is now allowed to pursue and complete her D.Ed. Course. The cancellation of the result of the Petitioner by the Divisional Board is, in the circumstances, quashed and set aside. The Petition is accordingly disposed of. There shall be no order as to costs.